

105TH CONGRESS
2D SESSION

H. R. 3164

IN THE SENATE OF THE UNITED STATES

APRIL 23, 1998

Received; read twice and referred to the Committee on Commerce, Science,
and Transportation

AN ACT

To describe the hydrographic services functions of the Administrator of the National Oceanic and Atmospheric Administration, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Hydrographic Services
5 Improvement Act of 1998”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) ADMINISTRATOR.—The term “Adminis-
9 trator” means the Administrator of the National
10 Oceanic and Atmospheric Administration.

1 (2) ADMINISTRATION.—The term “Administra-
2 tion” means the National Oceanic and Atmospheric
3 Administration.

4 (3) HYDROGRAPHIC DATA.—The term “hydro-
5 graphic data” means information acquired through
6 hydrographic or bathymetric surveying, photo-
7 grammetry, geodetic measurements, tide and current
8 observations, or other methods, that is used in pro-
9 viding hydrographic services.

10 (4) HYDROGRAPHIC SERVICES.—The term “hy-
11 drographic services” means—

12 (A) the management, maintenance, inter-
13 pretation, certification, and dissemination of
14 bathymetric, hydrographic, geodetic, and tide
15 and current information, including the produc-
16 tion of nautical charts, nautical information
17 databases, and other products derived from hy-
18 drographic data;

19 (B) the development of nautical informa-
20 tion systems; and

21 (C) related activities.

22 (5) ACT OF 1947.—The term “Act of 1947”
23 means the Act entitled “An Act to define the func-
24 tions and duties of the Coast and Geodetic Survey,

1 and for other purposes”, approved August 6, 1947
2 (33 U.S.C. 883a et seq.).

3 **SEC. 3. FUNCTIONS OF THE ADMINISTRATOR.**

4 (a) RESPONSIBILITIES.—To fulfill the data gathering
5 and dissemination duties of the Administration under the
6 Act of 1947, the Administrator shall—

7 (1) acquire hydrographic data;

8 (2) promulgate standards for hydrographic data
9 used by the Administration in providing hydro-
10 graphic services;

11 (3) promulgate standards for hydrographic
12 services provided by the Administration;

13 (4) ensure comprehensive geographic coverage
14 of hydrographic services, in cooperation with other
15 appropriate Federal agencies;

16 (5) maintain a national database of hydro-
17 graphic data, in cooperation with other appropriate
18 Federal agencies;

19 (6) provide hydrographic services in uniform,
20 easily accessible formats;

21 (7) participate in the development of, and im-
22 plement for the United States in cooperation with
23 other appropriate Federal agencies, international
24 standards for hydrographic data and hydrographic
25 services; and

1 (8) to the greatest extent practicable and cost-
2 effective, fulfill the requirements of paragraphs (1)
3 and (6) through contracts or other agreements with
4 private sector entities.

5 (b) AUTHORITIES.—To fulfill the data gathering and
6 dissemination duties of the Administration under the Act
7 of 1947, and subject to the availability of appropriations,
8 the Administrator—

9 (1) may procure, lease, evaluate, test, develop,
10 and operate vessels, equipment, and technologies
11 necessary to ensure safe navigation and maintain
12 operational expertise in hydrographic data acquisi-
13 tion and hydrographic services;

14 (2) may enter into contracts and other agree-
15 ments with qualified entities, consistent with sub-
16 section (a)(8), for the acquisition of hydrographic
17 data and the provision of hydrographic services;

18 (3) shall award contracts for the acquisition of
19 hydrographic data in accordance with title IX of the
20 Federal Property and Administrative Services Act of
21 1949 (40 U.S.C. 541 et seq.); and

22 (4) may, subject to section 5, design and install
23 where appropriate Physical Oceanographic Real-
24 Time Systems to enhance navigation safety and effi-
25 ciency.

1 **SEC. 4. QUALITY ASSURANCE PROGRAM.**

2 (a) DEFINITION.—For purposes of this section, the
3 term “hydrographic product” means any publicly or com-
4 mercially available product produced by a non-Federal en-
5 tity that includes or displays hydrographic data.

6 (b) PROGRAM.—

7 (1) IN GENERAL.—The Administrator may—

8 (A) develop and implement a quality assur-
9 ance program, under which the Administrator
10 may certify hydrographic products that satisfy
11 the standards promulgated by the Adminis-
12 trator under section 3(a)(3);

13 (B) authorize the use of the emblem or any
14 trademark of the Administration on a hydro-
15 graphic product certified under subparagraph
16 (A); and

17 (C) charge a fee for such certification and
18 use.

19 (2) LIMITATION ON FEE AMOUNT.—Any fee
20 under paragraph (1)(C) shall not exceed the costs of
21 conducting the quality assurance testing, evaluation,
22 or studies necessary to determine whether the hydro-
23 graphic product satisfies the standards adopted
24 under section 3(a)(3), including the cost of admin-
25 istering such a program.

1 (c) LIMITATION ON LIABILITY.—The Government of
2 the United States shall not be liable for any negligence
3 by a person that produces hydrographic products certified
4 under this section.

5 (d) HYDROGRAPHIC SERVICES ACCOUNT.—

6 (1) ESTABLISHMENT.—There is established in
7 the Treasury a separate account, which shall be
8 known as the Hydrographic Services Account.

9 (2) CONTENT.—The account shall consist of—

10 (A) amounts received by the United States
11 as fees charged under subsection (b)(1)(C); and

12 (B) such other amounts as may be pro-
13 vided by law.

14 (3) LIMITATION; DEPOSIT.—Fees deposited in
15 this account during any fiscal year pursuant to this
16 section shall be deposited and credited as offsetting
17 collections to the National Oceanic and Atmospheric
18 Administration, Operations, Research, and Facilities
19 account. No amounts collected pursuant to this sec-
20 tion for any fiscal year may be spent except to the
21 extent provided in advance in appropriations Acts.

22 (e) LIMITATION ON NEW FEES AND INCREASES IN
23 EXISTING FEES FOR HYDROGRAPHIC SERVICES.—After
24 the date of the enactment of this Act, the Administrator
25 may not—

1 (1) establish any fee or other charge for the
2 provision of any hydrographic service except as au-
3 thorized by this section; or

4 (2) increase the amount of any fee or other
5 charge for the provision of any hydrographic service
6 except as authorized by this section and section
7 1307 of title 44, United States Code.

8 **SEC. 5. OPERATION AND MAINTENANCE OF PHYSICAL**
9 **OCEANOGRAPHIC REAL-TIME SYSTEMS.**

10 (a) NEW SYSTEMS.—After the date of enactment of
11 this Act, the Administrator may not design or install any
12 Physical Oceanographic Real-Time System, unless the
13 local sponsor of the system or another Federal agency has
14 agreed to assume the cost of operating and maintaining
15 the system within 90 days after the date the system be-
16 comes operational.

17 (b) EXISTING SYSTEMS.—After October 1, 1999, the
18 Administration shall cease to operate Physical Oceano-
19 graphic Real-Time Systems, other than any system for
20 which the local sponsor or another Federal agency has
21 agreed to assume the cost of operating and maintaining
22 the system by January 1, 1999.

23 **SEC. 6. REPORTS.**

24 (a) PHOTOGRAMMETRY AND REMOTE SENSING.—

1 (1) IN GENERAL.—Not later than 6 months
2 after the date of enactment of this Act, the Adminis-
3 trator shall report to the Congress on a plan to in-
4 crease, consistent with this Act, contracting with the
5 private sector for photogrammetric and remote sens-
6 ing services related to hydrographic data acquisition
7 or hydrographic services. In preparing the report,
8 the Administrator shall consult with private sector
9 entities knowledgeable in photogrammetry and re-
10 mote sensing.

11 (2) CONTENTS.—The report shall include the
12 following:

13 (A) An assessment of which of the photo-
14 grammetric and remote sensing services related
15 to hydrographic data acquisition or hydro-
16 graphic services performed by the National
17 Ocean Service can be performed adequately by
18 private-sector entities.

19 (B) An evaluation of the relative cost-effec-
20 tiveness of the Federal Government and pri-
21 vate-sector entities in performing those services.

22 (C) A plan for increasing the use of con-
23 tracts with private-sector entities in performing
24 those services, with the goal of obtaining per-
25 formance of 50 percent of those services

1 through contracts with private-sector entities by
2 fiscal year 2003.

3 (b) PORTS.—Not later than 6 months after the date
4 of enactment of this Act, the Administrator shall report
5 to the Congress on—

6 (1) the status of implementation of real-time
7 tide and current data systems in United States
8 ports;

9 (2) existing safety and efficiency needs in
10 United States ports that could be met by increased
11 use of those systems; and

12 (3) a plan for expanding those systems to meet
13 those needs, including an estimate of the cost of im-
14 plementing those systems in priority locations.

15 (c) MAINTAINING FEDERAL EXPERTISE IN HYDRO-
16 GRAPHIC SERVICES.—

17 (1) IN GENERAL.—Not later than 6 months
18 after the date of enactment of this Act, the Adminis-
19 trator shall report to the Congress on a plan to en-
20 sure that Federal competence and expertise in hy-
21 drographic surveying will be maintained after the de-
22 commissioning of the 3 existing National Oceanic
23 and Atmospheric Administration hydrographic sur-
24 vey vessels.

25 (2) CONTENTS.—The report shall include—

1 (A) an evaluation of the seagoing capacity,
2 personnel, and equipment necessary to maintain
3 Federal expertise in hydrographic services;

4 (B) an estimated schedule for decommis-
5 sioning the 3 existing survey vessels;

6 (C) a plan to maintain Federal expertise in
7 hydrographic services after the decommissioning
8 of these vessels; and

9 (D) an estimate of the cost of carrying out
10 this plan.

11 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

12 There is authorized to be appropriated to the Admin-
13 istrator the following:

14 (1) To carry out nautical mapping and charting
15 functions under the Act of 1947 and sections 3 and
16 4, except for conducting hydrographic surveys,
17 \$33,000,000 for fiscal year 1999, \$34,000,000 for
18 fiscal year 2000, \$35,000,000 for fiscal year 2001,
19 \$36,000,000 for fiscal year 2002, and \$37,000,000
20 for fiscal year 2003.

21 (2) To conduct hydrographic surveys under sec-
22 tion 3(a)(1), including leasing of ships, \$33,000,000
23 for fiscal year 1999, \$35,000,000 for fiscal year
24 2000, \$37,000,000 for fiscal year 2001,
25 \$39,000,000 for fiscal year 2002, and \$41,000,000

1 for fiscal year 2003. Of these amounts, no more
2 than \$14,000,000 is authorized for any one fiscal
3 year to operate hydrographic survey vessels owned
4 and operated by the Administration.

5 (3) To carry out geodetic functions under the
6 Act of 1947, \$20,000,000 for fiscal year 1999, and
7 \$22,000,000 for each of fiscal years 2000, 2001,
8 2002, and 2003.

9 (4) To carry out tide and current measurement
10 functions under the Act of 1947, \$22,500,000 for
11 each of fiscal years 1999 through 2003. Of these
12 amounts, \$2,500,000 is authorized for each fiscal
13 year to implement and operate a national quality
14 control system for real-time tide and current data,
15 and \$7,500,000 is authorized for each fiscal year to
16 design and install real-time tide and current data
17 measurement systems under section 3(b)(4) (subject
18 to section 5).

19 **SEC. 8. COMPLIANCE WITH BUY AMERICAN ACT.**

20 No funds authorized pursuant to this Act may be ex-
21 pended by an entity unless the entity agrees that in ex-
22 pending the assistance the entity will comply with sections
23 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–
24 10c, popularly known as the “Buy American Act”).

1 **SEC. 9. SENSE OF THE CONGRESS; REQUIREMENT REGARD-**
2 **ING NOTICE.**

3 (a) PURCHASE OF AMERICAN-MADE EQUIPMENT
4 AND PRODUCTS.—In the case of any equipment or prod-
5 ucts that may be authorized to be purchased with financial
6 assistance provided under this Act, it is the sense of the
7 Congress that entities receiving such assistance should, in
8 expending the assistance, purchase only American-made
9 equipment and products.

10 (b) NOTICE TO RECIPIENTS OF ASSISTANCE.—In
11 providing financial assistance under this Act, the Sec-
12 retary of Commerce shall provide to each recipient of the
13 assistance a notice describing the statement made in sub-
14 section (a) by the Congress.

15 **SEC. 10. PROHIBITION OF CONTRACTS.**

16 If it is has been finally determined by a court or Fed-
17 eral agency that any person intentionally affixed a label
18 bearing a “Made in America” inscription, or any inscrip-
19 tion with the same meaning, to any product sold in or
20 shipped to the United States that is not made in the
21 United States, such person shall be ineligible to receive
22 any contract or subcontract made with funds provided
23 pursuant to this Act, pursuant to the debarment, suspen-
24 sion, and ineligibility procedures described in section

1 9.400 through 9.409 of title 48, Code of Federal Regula-
 2 tions.

Passed the House of Representatives April 22, 1998.

Attest:

Robin H. Carle,
Clerk.